

Message Text

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ACTION ARA-10

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FM AMEMBASSY PANAMA

TO SECSTATE WASHDC 5034

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E.O. 11652: N/A

TAGS: AMGT, CFED, PN, US

SUBJECT: PROPOSED USG-GOP AGREEMENT ON SMITHSONIAN TROPICAL
RESEARCH INSTITUTE (STRI)

1. AFTER RECEIPT OF CLARIFICATION REQUESTED BY EMBASSY
(STATE 125000), TEXT OF PROPOSED STRI AGREEMENT WAS
TRANSMITTED TO FONOFF BY NOTE DATED JUNE 2. CONTRARY TO
EARLIER INDICATION FROM FONOFF LEGAL ADVISER REGARDING
ACCEPTABILITY OF A GOVERNMENT-TO-GOVERNMENT AGREEMENT
IN LIEU OF A CONTRACT NEGOTIATED DIRECTLY EARLIER (BUT
NOT SIGNED) BY STRI, FONOFF REPLIED ON JUNE 12 THAT IT
WAS "NECESSARY AND INDISPENSIBLE" TO PROCEED IN ACCORDANCE
WITH PANAMANIAN LAW 57 WHICH SANCTIONED STRI CONTRACT.

2. FURTHER INFORMAL CONSULTATION WITH FONOFF TO EXPLAIN
WHY PROPOSED STRI-GOP CONTRACT CONTAINING CALVO CLAUSE
NOT APPROPRIATE FOR USG AGENCY ELICITED SUGGESTION THAT
EMBASSY INDICATE THIS IN DIPLOMATIC NOTE WHICH EMBASSY
DID ON JULY 24. IN DELIVERING NOTE, AMBASSADOR SPOKE
WITH ACTING FONMIN ABOUT STRI PROBLEM AND URGED RECON-
SIDERATION OF FONOFF POSITION. HOWEVER, EMBASSY NOW IN
RECEIPT OF NEW FONOFF NOTE WHICH REITERATES NECESSITY
TO PROCEED IN ACCORDANCE WITH LAW 57. IN SAME NOTE
FONOFF ERRONEOUSLY POINTS TO GORGAS MEMORIAL INSTITUTE
OF TROPICAL AND PREVENTIVE MEDICINE, WHICH IT CHARACTERIZES
AS A USG "INDEPENDENT AGENCY," AS EXAMPLE WHERE US
ENTITY ENTERED INTO CONTRACTUAL ARRANGEMENT CONTAINING
A CALVO CLAUSE WITH GOP.

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3. EMBASSY HAS INFORMATION NECESSARY TO REFUTE FONOFF'S MISTAKEN IMPRESSION REGARDING NATURE OF GORGAS MEMORIAL INSTITUTE BUT BELIEVES THAT AT LEAST TEMPORARY IMPASSE HAS BEEN REACHED ON STRI. STRI IS UNDERSTANDABLY ANXIOUS TO OBTAIN AUTHORIZATION TO ESTABLISH OFFICE IN REPUBLIC AND HAS SUGGESTED (APPARENTLY AFTER CONSULTING SMITHSONIAN GENERAL COUNSEL) THAT IT BE PERMITTED TO SIGN CONTRACT ENVISIONED IN LAW 57 AND HAVE EMBASSY IN SEPARATE ACTION NOTIFY FONOFF THAT USG DOES NOT CONSIDER ITSELF BOUND BY CALVO CLAUSE CONTAINED IN CONTRACT ENTERED INTO BY STRI, A USG INSTRUMENTALITY. EMBASSY DOES NOT BELIEVE THIS TO BE SUITABLE SOLUTION FOR USG, GOP OR STRI BUT WILL DEFER TO DEPARTMENT'S JUDGMENT REGARDING THIS PROPOSAL.

4. STRI DIRECTOR DR. IRA RUBINOFF NOW IN WASHINGTON AND EXPECTS TO RAISE THIS MATTER WITH SMITHSONIAN INSTITUTION AND DEPARTMENT.
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